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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345-2142-03]

RIN 0648-XE896

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2016 Commercial Accountability Measures and Closure for South
Atlantic Greater Amberjack**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial greater amberjack in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings of greater amberjack will reach the commercial annual catch limit (ACL) by October 4, 2016. Therefore, NMFS closes the commercial sector for greater amberjack in the South Atlantic EEZ on October 4, 2016, and it will remain closed until the start of the next fishing year on March 1, 2017. This closure is necessary to protect the greater amberjack resource.

DATES: This rule is effective at 12:01 a.m., local time, October

4, 2016, until 12:01 a.m., local time, March 1, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail: *mary.vara@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes greater amberjack and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for greater amberjack is equivalent to the commercial quota. The commercial quota for greater amberjack in the South Atlantic is 769,388 lb (348,989 kg), gutted weight, as specified in 50 CFR 622.190(a)(3).

Under 50 CFR 622.193(k)(1), NMFS is required to close the commercial sector for greater amberjack when the commercial ACL (commercial quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS projects that commercial landings of South Atlantic greater amberjack will reach the commercial ACL

by October 4, 2016. Accordingly, the commercial sector for South Atlantic greater amberjack is closed effective at 12:01 a.m., local time, October 4, 2016, until 12:01 a.m., local time, March 1, 2017.

The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper with greater amberjack on board must have landed and bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, October 4, 2016. During the commercial closure, harvest and possession of greater amberjack in or from the South Atlantic EEZ is limited to the bag and possession limits, as specified in § 622.187(b)(1) and (c)(1). Also during the commercial closure, the sale or purchase of greater amberjack taken from the South Atlantic EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 4, 2016, and were held in cold storage by a dealer or processor, as specified in § 622.190(c)(1)(i).

For a person on board a vessel issued a valid Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery, the bag and possession limits

and the sale and purchase provisions of the commercial closure for greater amberjack apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of greater amberjack and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(k)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act, because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the commercial sector for greater amberjack constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be

unnecessary and contrary to the public interest. Such procedures are unnecessary because the AMs have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect greater amberjack since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 26, 2016.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,

National Marine Fisheries Service.

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